Action Minutes

Zoning Adjustments Board
Thursday, February 22, 2007
7:00 PM

City Council Chambers
2134 Martin Luther King Junior Way
Berkeley, CA 94704
(Wheelchair Accessible)

Public Testimony Guidelines
The Board Chair may limit the number of speakers and the length of time allowed to each speaker. To speak at a
public hearing, complete a speaker card and submit to Planning Staff (1) at the public hearing, by 7:15 PM on the night
of the hearing, or (2) at the Permit Service Center, 2120 Milvia Street, before 5:00 PM on the day of the hearing.

The Board encourages the public to submit comments in writing or by email, in advance of the meeting. See
Correspondence and Notice of Decision Requests at the end of this Agenda for procedures.

Planning and Development Department, Land Use division

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Roll Call
Call to Order: 7:00 PM
Present: Allen, Anthony, Arreguin, Alvarez-Cohen, Shumer, Tiedemann,
Absent: Blake, Doran, Judd
Approximate Public Attendance: 100 people

Public Comment None
Each Speaker is limited to a maximum of three minutes.

Consent Calendar:
The Chairperson of the Board will announce the items on the Consent Calendar at 7:05 p.m. Anyone present
who wishes to speak on an item should raise his or her hand and advise the Chairperson, and the item will be
pulled. Any applicant, member of the audience, or Zoning Adjustments Board member may require that a
Consent Calendar item be removed from the Calendar for discussion and testimony (if already posted for
hearing). Items pulled from the Consent Calendar will be heard following Continued Items, or, if necessary,
posted for a public hearing at a subsequent meeting.

1230 Fifth Street added to the consent calendar
1226 Rose Street added to the consent calendar
43 Senior Avenue added to the consent calendar

1. 2433 Channing Way
Request by: City of Berkeley Mental Health and Human Services.
Use Permit Modification #07-10000017 to change the hours of operation of the City of Berkeley’s Health and Human Services mobile crisis team to 11 a.m. to 11 p.m. daily (currently from 11 a.m. to 10 p.m. daily) (C-T, Telegraph Commercial District, NFD)
Continued From: none
Recommendation: Approve
Action: Approved on consent (6-0-0-3) (absent: Blake, Judd, Doran).

Agenda Changes
The Board Chair may reorder the agenda at the beginning of the meeting.

Blake arrives 7:15 PM

Appeal of Administrative Use Permit: None
Appeals of Administrative Use Permit are not subject to public hearing and no public testimony will be taken at this time. The Board may set the matter for public hearing, or affirm the Zoning Officer’s decision.

Continued Item (not a public hearing): None

Continued Public Hearings:

2. 2727 Milvia
Appellants: Mr. Art Medlar, 2730 Milvia Street, Berkeley, CA 94703 and Savo Island Cooperative Homes, Inc., 2017 Stuart Street, Berkeley, CA 94703.
Applicant: East Bay Iceland, Inc., 2727 Milvia Street, Berkeley, CA 94703
Appeal of Temporary Administrative Use Permit #06-20000056 to install a temporary outdoor refrigeration system on the southern side of the property for the existing ice skating rink; (South Area Commercial; C-SA, South Area Commercial; CW).
Continued From: 10/26/06; 12/14/06; 01/11/07
Recommendation: Application Withdrawn
Action: No action, application withdrawn.

3. 161 Panoramic Way
Request by: Mr. Bruce Kelley, 2015 Delaware Street, Berkeley, CA 94709.
Use Permit #04-10000145 to construct a new 2-story single-family dwelling with 1,460 square feet of floor area, 2 parking spaces, at an average height of 24 feet, on a 3,295 square foot vacant lot; (ES-R, Environmental Safety-Residential; VK).
Continued From: 01/11/07, 2/08/07
Recommendation: Adopt Mitigated Negative Declaration and Approve Project
Nuisance Proceedings: None

New Hearings:

4. **1230 Fifth Street**
   Request by: Michael Nilmeyer, Nilmeyer/Nilmeyer Associates, 128 Pepper Avenue, Burlingame CA 94010.
   Use Permit #06-10000102 to construct a 7,245 square foot concrete block warehouse building with associated office space. Two tenant spaces are proposed; (MU-LI, Mixed Use – Light Industrial, GMS).
   
   Continued From: none
   Recommendation: Approve
   Action: Approved on consent (5-1-0-3) (No: Arreguin) (Absent: Judd, Blake, Doran).

5. **1226 Rose Street**
   Request by: Christopher Witherspoon, 1565-76 Avenue Oakland, CA 94621.
   Use Permit #06-1000030 to convert a daycare center back to a single-family residence on a 6,105 square foot lot that already contains a single-family residence; (R-2, Restricted Two-Family Residential District, GMS).
   
   Continued From: none
   Recommendation: Approve
   Action: Approved on consent (6-0-0-3) (Absent: Judd, Blake, Doran).

6. **1838 San Juan**
   Request by: Lise Mathews 1510 Abbot Kinney Blvd. Los Angeles, CA 90291
   Administrative Use Permit # 06-2000126 to extend the second floor building mass on the south side, 2’10’’ towards the rear property line, and into a non-conforming rear yard as a continuation of an architectural feature, where there is a rear yard setback of approximately 16’8’’ and 20’ is required; (R-1(H), Single Family Residential, Hillside Overlay. NFD).
   
   Continued From: none
   Recommendation: Deny
   Action: No action, application withdrawn.

7. **43 Senior Avenue**
   Request by: Ken Renworth and Catherine Crowley, 36651 Lakewood Court, Newark, CA 94560.
   Use Permit #06-10000069 to construct a new three story single family home with 2,880 square feet of floor area and a detached hot tub; (R-1(H), Single Family Residential District-Hillside overlay, SDR).
Continued From: none
Recommendation: Approve
Action: Approved on consent (6-0-0-3) (Absent: Judd, Blake, Doran).

Additional Agenda Items:
A. Information/Communication
   • Letter from Steve Wollmer 02-13-07
   • 2629-2635 Ashby Correspondence
B. Business Meeting
C. Chair’s Report
D. Current Business/Committee Appointment
E. Future Agenda Items
F. Other Matters
G. Adjourn 8:30 PM

Correspondence and Notice of Decision Requests
• To distribute correspondence to Board members prior to the meeting date -- submit comments by 12:00 noon, seven (7) days before the meeting. Please provide 15 copies of any correspondence with more than ten (10) pages.
• Any correspondence received after this deadline will be given to Board members on the meeting date just prior to the meeting.
• Staff will not deliver to Board members any additional written (or email) materials received after 12:00 noon on the day of the meeting.
• Members of the public may submit written comments themselves early in the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Zoning Adjustments Board Clerk just before or at the beginning of the meeting.
• Written comments, or a request for a Notice of Decision should be directed to the ZAB Secretary at Land Use Planning Division (Attn: ZAB Secretary) 2120 Milvia Street Berkeley, CA 94704 OR at zab@ci.berkeley.ca.us

Communication Access
To request a meeting agenda in large print, Braille, or on cassette, or to request a sign language interpreter for the meeting, call the Current Planning Division at 981-7410 (voice) or 981-7474 (TDD); at least five (5) working days notice will ensure availability.

Legal Notice Concerning Your Legal Rights
If you object to a decision by the Zoning Adjustments Board to approve or deny a permit or variance for a project, the following requirements and restrictions apply:
1. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Current Planning Division in writing to receive a Notice of Decision when it is completed.

2. Pursuant to Code of Civil Procedure, Section 1094.6(b), no lawsuit challenging a City Council decision to deny a permit or variance may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure, Section 1094.6(b), which has been adopted by the City. Any lawsuit not filed within that ninety (90) day period
will be barred.

3. Pursuant to Government Code, Section 65009(c)(5), no lawsuit challenging a City Council decision to approve (with or without conditions) a permit or variance may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure, Section 1094.6(b), which has been adopted by the City. Any lawsuit not filed within that ninety (90) day period will be barred.

4. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a “taking” of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:

A. That this belief is a basis of your appeal.

B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.

C. All evidence and argument in support of your belief that the decision or condition constitutes a “taking” as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

[Approved for posting by Debra R. Sanderson, Secretary, Zoning Adjustments Board, 3/6/07.]